

CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: AIRPORT

AGENDA DATE: February 6, 2007

CONTACT PERSON/PHONE: Patrick T. Abeln, A.A.E. – 780-4724

DISTRICT(S) AFFECTED: 03

SUBJECT:

Resolution authorizing **City Manager** to sign a Lessor's Approval of Assignment of the Industrial Site Lease between the City of El Paso, ("Lessor") and Rodrigo R. Eckenroth, (Assignor) and Eckenroth Investments, Ltd., ("Assignee").

BACKGROUND / DISCUSSION:

The City of El Paso entered into an Industrial Site Lease on June 1, 1979 with Paul J. Connington for the property described as Lot 7 Block 7, El Paso International Airport Tracts, Unit 2 and consisting of approximately 30,825 sq. ft. The lease term is for forty (40) years expiring May 31, 2019. The Lease was assigned to Lockheed Joint Venture in April, 1982 and subsequently assigned February 10, 2004 to IGIT, Ltd., of which John T. Hellard is the principal partner. The lease was assigned to Rodrigo R. Eckenroth on October 10, 2006.

The present lease rate is \$0.138/sq. ft., which equates to \$4,253.80/annum (\$354.90/mo.). In accordance with the Lease, the rent is to be adjusted at each five (5) year lease anniversary to an amount equal to six percent (6%) of the fair market value of the land with a 20% cap. The next rent adjustment will be due June 1, 2009. The office building constructed on the property was renovated in 2004 and is leased to various small businesses.

ANALYSIS:

Subsequent to the sale of the building and assignment of the ground lease in October 2006, Mr. Eckenroth established Eckenroth Investments, Ltd., a Texas limited partnership, to act as Lessee for this lease and is requesting Lessor's Approval of Assignment of his ground lease for the referenced property to the newly formed partnership.

By this document, the City will approve the assignment of the lease contingent upon I.G.I.T., Ltd. remaining as guarantor of the Lease and Assignee's obligation to adhere to all the terms and conditions of the Lease.

PRIOR COUNCIL ACTION:

On October 10, 2006, Lessor's Approval of Assignment to Rodrigo R. Eckenroth from I.G.I.T., Ltd.

AMOUNT AND SOURCE OF FUNDING:

There will be no expense to Airport.

BOARD / COMMISSION ACTION:

This request for Lessor's Approval of Assignment was presented and approved by the Airport Board during the January 18, 2007 Board Meeting.

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required)

Raymond L. Telles
Raymond L. Telles, Asst. City Attorney

FINANCE: (if required)

OTHER:

Patrick T. Abeln, A. A. E., Director of Aviation

(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER:

07 JAN 26 PM 3:30
CITY CLERK DEPT.

DATE:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a Lessor's Approval of Assignment by and between the City of El Paso ("Lessor"), Rodrigo R. Eckenroth ("Assignor") and Eckenroth Investments, Ltd. ("Assignee") for the following described property:

Lot 7, Block 7, El Paso International Airport Tracts, Unit 2,
City of El Paso, El Paso County, Texas.

ADOPTED this the ____ day of _____ 2007.


THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:


Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:



Patrick T. Abeln, A. A. E.
Director of Aviation

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CITY CLERK DEPT.

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

LESSOR'S APPROVAL OF ASSIGNMENT

The City of El Paso ("Lessor") entered into an Industrial Site Lease with an effective date of June 1, 1979 between the Lessor and Paul J. Connington, which was assigned to Lockheed Joint Venture effective April 30, 1982. This lease was subsequently assigned to I.G.I.T., LTD. effective February 10, 2004; and then subsequently assigned to Rodrigo R. Eckenroth ("Assignor") pursuant to a Lessor's Approval of Assignment with an effective date of October 10, 2006. The initial lease and subsequent Lessor's Approvals of Assignment documents (collectively referred to herein as the "Lease") cover the following described leased premises:

Lot 7, Block 7, El Paso International Airport Tracts, Unit 2,
City of El Paso, El Paso County, Texas, being more
particularly described in Exhibit A, attached hereto and made
a part hereof ("Premises").

1. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease from Assignor to Eckenroth Investments, Ltd. ("Assignee"), on the condition that Assignee assumes and becomes liable to pay any and all sums owing or becoming due Lessor under terms of the Lease from and after the effective date of the assignment of the Lease to Assignee, and upon the further condition that Assignee agrees to accept and abide by all the terms, covenants, and conditions of the Lease.
2. **PROOF OF INSURANCE AND INDEMNIFICATION.** Assignee has provided a certificate of insurance to evidence compliance with the insurance requirements of the Lease and expressly agrees to be bound by the indemnification provisions contained in the Lease.
3. **GUARANTOR.** I.G.I.T., LTD., as a previous lessee of the Premises agreed pursuant to the Lessor's Approval of Assignment of October 10, 2004 to become the guarantor of the Lease when Assignor received said Lease. I.G.I.T., LTD. hereby confirms that it will remain as Guarantor of the Lease, whereby I.G.I.T., LTD. guarantees payment of rent and other charges or fees due to the Lessor and shall remain fully liable for the prompt and complete performance of any and all obligations arising, or to arise, under the Lease.
4. **RATIFICATION OF AGREEMENT.** Except as expressly modified herein, no provision of this consent alters or modifies any of the terms and conditions of the Lease; all other terms and conditions of the Lease shall remain in full force and effect.

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5. **ADDRESS FOR NOTICE.** Notices to Assignee, Assignor and Guarantor shall be sufficient if sent by certified mail, postage prepaid, addressed to:

ASSIGNOR: Rodrigo R. Eckenroth
11569 Spencer
El Paso, Texas 79936

ASSIGNEE: Eckenroth Investments, Ltd.
11569 Spencer
El Paso, Texas 79936

GUARANTOR: I.G.I.T., LTD.
ATTN: John T. Hellard
1535 Hawkins
El Paso, Texas 79925

6. **AUTHORIZED REPRESENTATIVE.** The persons signing this Lessor's Approval of Assignment on behalf of the Assignee, Assignor and Guarantor represent and warrant that they have the authority legally to bind the Assignee, Assignor or Guarantor, respectively, to the provisions of this Lessor's Approval of Assignment.
7. **NON-WAIVER.** The Lessor's Approval of Assignment hereby given by Lessor shall not end the need for Lessor's consent for any future assignments.
8. **EFFECTIVE DATE.** The parties have executed this Lessor's Approval of Assignment hereto this _____ day of _____ 2007.

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

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LESSOR: CITY OF EL PASO

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:

Patrick T. Abeln
Patrick T. Abeln, A.A.E.
Director of Aviation

ATTEST:

Printed Name: _____

ASSIGNOR: Rodrigo R. Eckenroth

Rodrigo R. Eckenroth
Printed Name: Rodrigo R. Eckenroth
Title: owner

ATTEST:

Printed Name: _____

ASSIGNEE: Eckenroth Investments, Ltd.

Rodrigo R. Eckenroth
Printed Name: Rodrigo R. Eckenroth
Title: owner

ATTEST:

Printed Name: _____

GUARANTOR: I.G.I.T., LTD.

John T. Hellard
Printed Name: JOHN T. HELLARD
Title: PRESIDENT I G I T. LTD

(ACKNOWLEDGMENTS BEGIN ON THE FOLLOWING PAGE)

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LESSOR'S ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2007, by **Joyce A. Wilson** as **City Manager** of the **City of El Paso, Texas**. (Lessor)

Notary Public, State of Texas

My Commission Expires:

ASSIGNOR'S ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

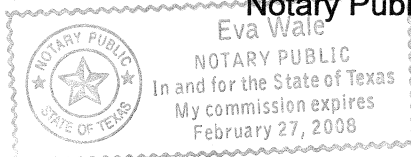
This instrument was acknowledged before me on this 25 day of January, 2007, by **Rodrigo R. Eckenroth** (Assignor).

Eva Wale

Notary Public, State of Texas

My Commission Expires:

02/27/08



ASSIGNEE'S ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

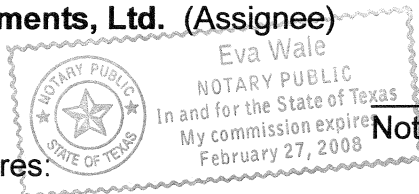
This instrument was acknowledged before me on this 25 day of January, 2007, by **Rodrigo R. Eckenroth** as owner of **Eckenroth Investments, Ltd.** (Assignee)

Eva Wale

Notary Public, State of Texas

My Commission Expires:

02/27/08



07 JAN 26 PM 3:30
CITY CLERK DEPT.

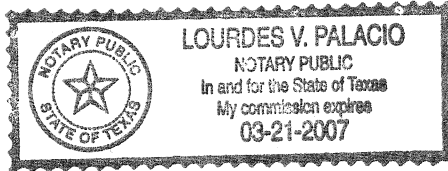
GUARANTOR'S ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 23RD day of January, 2007, by John T. Hellard as President of I.G.I.T., LTD. (Guarantor).

Lourdes V. Palacio
Notary Public, State of Texas

My Commission Expires:
3-21-2007



CITY CLERK DEPT.
07 JAN 26 PM 3:30

